

By: Bell

H.B. No. 3170

A BILL TO BE ENTITLED

AN ACT

relating to the protection of the rights of a property owner in an eminent domain proceeding.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.0111, Property Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) After making an offer to which Subsection (a) applies, the entity shall disclose to the property owner any new, amended, or updated appraisal report produced or acquired by or on behalf of the entity after making the offer and used in determining the entity's opinion of value. A disclosure required by this subsection must be made not later than the earlier of:

(1) the 10th day after the date the entity receives the appraisal report; or

(2) the third business day before the date of a special commissioner's hearing if the appraisal report is to be used at the hearing.

SECTION 2. Section 21.012, Property Code, is amended by adding Subsection (d) to read as follows:

(d) In accordance with Section 21.019(b-1), a court shall dismiss a condemnation proceeding unless the entity that files a petition under this section proves to the court that the entity has met the requirements described in Subsection (b).

SECTION 3. Section 21.019, Property Code, is amended by

amending Subsections (a), (b), and (c) and adding Subsection (b-1) to read as follows:

(a) A party that files a condemnation petition may move to dismiss, in whole or in part, the proceedings, and the court shall conduct a hearing on the motion. However, after the special commissioners have made an award, in an effort to obtain a lower award a condemnor may not dismiss, in whole or in part, the condemnation proceedings merely to institute new proceedings that involve substantially the same condemnation against the same property owner.

(b) A court that hears and grants a motion to dismiss, in whole or in part, a condemnation proceeding made by a condemnor under Subsection (a) shall make an allowance to the property owner for reasonable and necessary fees for attorneys, appraisers, and photographers and for the other expenses incurred by the property owner to the date of the hearing.

(b-1) The court shall dismiss a condemnation proceeding if the court finds that the party that filed the condemnation petition failed to comply with any provision of Sections 21.0111 through 21.012. A court that grants a motion to dismiss under this subsection shall make an allowance to the property owner for reasonable and necessary fees for attorneys, appraisers, and photographers and for the other expenses incurred by the property owner to the date of the hearing.

(c) Except as provided by Subsection (b-1), a [A] court that hears and grants a motion to dismiss a condemnation proceeding made by a property owner seeking a judicial denial of the right to

1 condemn or that otherwise renders a judgment denying the right to
2 condemn may make an allowance to the property owner for reasonable
3 and necessary fees for attorneys, appraisers, and photographers and
4 for the other expenses incurred by the property owner to the date of
5 the hearing or judgment.

6 SECTION 4. Sections 21.0195(b) and (c), Property Code, are
7 amended to read as follows:

8 (b) The department may move to dismiss, in whole or in part,
9 a proceeding it files, and the court shall conduct a hearing on the
10 motion. The court may grant the motion only if the court determines
11 that the property owner's interest will not be materially affected
12 by the dismissal. The department may not dismiss, in whole or in
13 part, the condemnation proceedings merely to institute new
14 proceedings that involve substantially the same condemnation
15 against the same property owner solely to obtain a lower
16 condemnation award.

17 (c) If a court dismisses, in whole or in part, a
18 condemnation proceeding on the motion of the department or as a
19 result of the failure of the department to bring the proceeding
20 properly, the court shall make an allowance to the property owner
21 for the value of the department's use of the property while in
22 possession of the property, any damage that the condemnation has
23 caused to the property owner, and any expenses the property owner
24 has incurred in connection with the condemnation, including
25 reasonable and necessary fees for attorneys.

26 SECTION 5. Section 21.047(d), Property Code, is repealed.

27 SECTION 6. (a) Section 21.0111, Property Code, as amended

1 by this Act, applies only to the acquisition of real property in
2 connection with an initial offer made under Section 21.0113,
3 Property Code, on or after the effective date of this Act. An
4 acquisition of real property in connection with an initial offer
5 made under Section 21.0113, Property Code, before the effective
6 date of this Act is governed by the law applicable to the
7 acquisition immediately before the effective date of this Act, and
8 that law is continued in effect for that purpose.

9 (b) Sections 21.012, 21.019, 21.0195, and 21.047, Property
10 Code, as amended by this Act, apply only to an eminent domain
11 proceeding commenced on or after the effective date of this Act. An
12 eminent domain proceeding commenced before the effective date of
13 this Act is governed by the law applicable to the proceeding
14 immediately before the effective date of this Act, and that law is
15 continued in effect for that purpose.

16 SECTION 7. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.